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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91189375
Party	Defendant Saeilo Enterprises, Inc.
Correspondence Address	Darren S. Cahr Drinker Biddle & Reath LLP 191 North Wacker Drive, Suite 3700 Chicago, IL 60606 UNITED STATES ipdocketchicago@dbr.com
Submission	Answer
Filer's Name	Darren S. Cahr
Filer's e-mail	IPDOCKETCHICAGO@DBR.COM, nancy.martinez-curtin@dbr.com
Signature	/darrenscahr-nmc/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PHILADELPHIA ORDNANCE,	)	
	)	
Opposer,	)	
	)	
v.	)	Opp. No. 91189375
	)	
SAEILO ENTERPRISES, INC.,	)	(Serial No. 77/559090)
	)	
Applicant.	)	
	)	
	)	
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**ANSWER TO NOTICE OF OPPOSITION**

Applicant Saeilo Enterprises, by and through its counsel, hereby answers the Notice of Opposition of Philadelphia Ordnance as follows:

1. The Thompson submachine gun was manufactured from 1921 to 1944 by the Auto-Ordnance Corporation of Bridgeport, Connecticut and the Auto-Ordnance Corporation of New York, New York. Over the years the Thompson submachine gun has become famous and recognizable from its use by both police and criminals, and from its widespread use in the Armed Forces of the United States during World War II up through Vietnam. The exploits of the Thompson have been well documented and presented to the public for over 75 years through newspapers, newsreels, movies, documentaries, and television. The Thompson submachine gun is, due to its distinctive appearance one of the most recognized firearms ever made.

**ANSWER TO PARAGRAPH 1:** Applicant admits that submachine guns under the THOMPSON name have become famous and recognizable, and that the exploits of these guns have been well documented. Applicant admits that submachine guns under the THOMPSON name have been manufactured under the direction of the Auto-Ordnance Corporation of Bridgeport, Connecticut and the Auto-Ordnance Corporation of New York, New York. Applicant further admits that due to its distinctive appearance, submachine guns under the THOMPSON name are among the most recognized firearms ever made. However, Applicant denies the remaining allegations of Paragraph 1.

2. Due to the above it was inevitable that the Thompson submachine gun would become a popular toy, and in fact has been manufactured in vast quantities as a toy in numerous forms on an on-going basis for over 50 years. The Thompson is probably one of the most copied (in terms of appearance) toy guns ever made. These toy Thompsons range from inexpensive children's toys to highly detailed expensive museum quality toy guns.

**ANSWER TO PARAGRAPH 2:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 2.

3. A variety of toy Thompsons are documented from plastic miniatures for use with toy soldiers, to museum quality metal 1/6 and 1/4 scale miniatures with moving parts.

**ANSWER TO PARAGRAPH 3:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 3.

4. A variety of toy Thompsons are documented which are reduced-size children's toys for playing war games made from plastic which are either facsimiles or close copies of the originals in appearance.

**ANSWER TO PARAGRAPH 4:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 4.

4 [sic]. A variety of toy Thompsons are documented which are full sized detailed display models with moving parts which can be disassembled. These are available as inexpensive facsimiles ranging to expensive exact copies.

**ANSWER TO PARAGRAPH 4 [sic]:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 4.

5. A variety of toy Thompsons are documented of exacting appearance which fire plastic pellets by means of mechanical devices incorporated into the toy.

**ANSWER TO PARAGRAPH 5:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 5.

6. Toy Thompsons are documented which are solid plastic or resin which are rough copies of the originals but which nevertheless incorporate the distinctive Thompson appearance.

**ANSWER TO PARAGRAPH 6:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 6.

7. Toy Thompsons are documented made from the cheapest materials possible - painted sheet metal, etc. which nevertheless incorporate the distinctive Thompson appearance.

**ANSWER TO PARAGRAPH 7:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 7.

8. Toy Thompsons of the “gadget” type are documented such as cigarette lighters which have the appearance of a Thompson submachine gun.

**ANSWER TO PARAGRAPH 8:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 8.

9. The fact that untold thousands of toy Thompson guns of various designs have been made and sold on an on-going basis for over 50 years by an ever-changing ever-renewing variety of toy manufactures, and that all of these toys have been advertised and/or marked “Thompson”, and that all of these toys duplicate either approximately or exactly the appearance of an original Thompson submachine gun has rendered the word “Thompson” generic.

**ANSWER TO PARAGRAPH 9:** Denied.

10. Philadelphia Ordnance has manufactured and sold museum quality replica toy guns on an on-going basis since 1986 - for well over 20 years. These toy guns have been advertised as “Thompson” and have markings similar to original guns which include the word “Thompson.”

**ANSWER TO PARAGRAPH 10:** Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 10.

10 *[sic]*. If Saeilo is awarded the generic word “Thompson” as a trademark for toy guns they will prevent the advertising and sale of toy Thompson guns which will cause damage to Philadelphia Ordnance by significantly reducing income from the sale of its quality toy guns.

**ANSWER TO PARAGRAPH 10 *[sic]*:** Applicant denies that the THOMPSON mark is a generic term. Applicant lacks the knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 10.

11. In March of 1944 manufacture of the Thompson submachine gun ceased. The Auto-Ordnance Corporation discontinued all activities, machinery, parts and equipment were sold or placed in storage, but the corporation was maintained by the primary investors and is a currently valid New York chartered corporation known as the Components Corporation of America.

**ANSWER TO PARAGRAPH 11:** Denied.

12. No business or corporate activity of any type - commerce, tax or corporate filings, etc. pertaining to any “Auto-Ordnance Corporation” was conducted or existed from 1944 until 1974. In 1974 a new Auto-Ordnance Corporation was registered in New York by the Numerich Arms Corporation of West Hurley, New York. This new corporation claimed it was the “original” Auto-Ordnance Corporation of Thompson submachine gun fame to facilitate the sales of newly designed and manufactured firearm which had the outward appearance of the Thompson submachine gun.

**ANSWER TO PARAGRAPH 12:** Denied.

13. The new Auto-Ordnance Corporation of West Hurley New York for years promoted itself as the “original” Auto-Ordnance Corporation. In 1999 Saeilo purchased the West Hurley Auto-Ordnance Corporation believing in good faith that they were purchasing the original corporation which had designed and manufactured the original Thompson submachine guns from 1921 to 1944.

**ANSWER TO PARAGRAPH 13:** Denied.

14. Saeilo continues to claim it is the “original” Auto-Ordnance Corporation and that it has “rights” accrued from the manufacture of Thompson submachine guns as far back as 1916, but the Auto-Ordnance Corporation they acquired did not exist prior to 1974, and has no connection with the Auto-Ordnance Corporation which as indicated in paragraph #11 is now known as the Components Corporation of America.

**ANSWER TO PARAGRAPH 14:** Denied.

WHEREFORE, Applicant prays that this opposition be denied and that Applicant’s mark be registered.

Respectfully submitted,

**SAEILO ENTERPRISES, INC.**

Date: May 27, 2009

By: /Darren S. Cahr/  
Darren S. Cahr  
Bina Palnitkar  
Drinker Biddle & Reath LLP  
191 N. Wacker Dr., Suite 3700  
Chicago, Illinois 60606-1698  
(312) 569-1000  
*Attorneys for Applicant*

**CERTIFICATE OF SERVICE**

The undersigned counsel for Applicant hereby certifies that on May 27, 2009, a true and correct copy the foregoing ANSWER TO NOTICE OF OPPOSITION was filed electronically through the Court's ESTTA System and that a copy was served via first class mail on May 27, 2009 to the following counsel of record for Opposer:

Robert Bower, Jr.  
Philadelphia Ordnance, Inc.  
222 Roesch Ave  
Oreland, PA 19075

/Darren Cahr/  
One of the Attorneys for Applicant